

STATE OF MICHIGAN  
COURT OF APPEALS

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BERNADETTE SAVAGE,

Plaintiff-Appellant,

v

PREMIERE PACKAGING, INC.,

Defendant-Appellee.

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UNPUBLISHED

April 1, 2003

No. 230591

Genesee Circuit Court

LC No. 97-058263-CZ

Before: Hoekstra, P.J., and Smolenski and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals as of right from a jury verdict of no cause of action. We affirm.

Plaintiff brought this action alleging claims of discrimination and retaliation under the Persons with Disabilities Act, MCL 37.1101 *et seq.*, the Civil Rights Acts, MCL 37.2101 *et seq.*, and the Worker's Disability Compensation Act, MCL 418.301(11). Plaintiff alleged that she was treated differently than other employees, filed grievances based on the inequities, was subject to harassment and vandalism by coworkers, and was discharged due to physical reactions to her work environment although defendant could have provided corrective equipment. The application of the statute of limitations precluded extensive testimony regarding the nature and form of harassment. However, the trial court admitted the testimony for background purposes. Despite the foundational background, the jury rejected plaintiff's complaint in its entirety.

Plaintiff first alleges that defense counsel made improper and inflammatory comments that were designed to prejudice and inflame the jurors, thereby depriving her of a fair trial. We disagree. In addressing a claim of improper conduct, this Court must first determine whether the comment was erroneous. *Watkins v Manchester*, 220 Mich App 337, 339; 559 NW2d 81 (1996). If erroneous, it must be determined whether the comment was harmless. *Badalamenti v William Beaumont Hosp*, 237 Mich App 278, 290; 602 NW2d 854 (1999). An isolated casual or vague reference to a large verdict in an unrelated matter may not warrant a new trial. *Reetz v Kinsman Marine Transit Co*, 416 Mich 97, 106; 330 NW2d 638 (1982). Improper comments may be cured by a cautionary instruction. *Knight v Gulf & Western Properties, Inc*, 196 Mich App 119, 132; 492 NW2d 761 (1992).<sup>1</sup> Under the circumstances of this case, *Reetz, supra*, the reference to

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<sup>1</sup> We note that plaintiff cites to *Kakligian v Henry Ford Hosp*, 48 Mich App 325, 327-329; 210 NW2d 463 (1973) for the proposition that commentary regarding motivation for filing a  
(continued...)

plaintiff's motive and the large verdict do not warrant a new trial. The comments were isolated in nature and the trial court instructed the jury that the arguments of counsel were not evidence. *Knight, supra*.

Plaintiff next alleges that defense counsel deprived her of a fair trial by injecting irrelevant issues and false accusations concerning her bankruptcy filing. We disagree. Plaintiff's credibility was an issue at trial, and defendant was entitled to impeach it within permissible bounds. See MRE 607. Considered in context, defense counsel's questions concerning plaintiff's bankruptcy were designed to test her credibility. Plaintiff does not cite any authority holding that issues related to bankruptcy are an improper subject of cross-examination, even when the questions relate solely to credibility. Although plaintiff asserts that defendant failed to present any direct proof that she was lying, defendant was prohibited from presenting extrinsic evidence because the bankruptcy matter was collateral and the questions were limited to impeachment. *Lagalo v Allied Corp (On Remand)*, 233 Mich App 514, 518; 592 NW2d 786 (1999). Plaintiff has not demonstrated that defense counsel's questions and comments concerning plaintiff's bankruptcy were improper.

Lastly, plaintiff alleges that a new trial is warranted because the jury instructions were incorrect, confusing, inconsistent, and misleading. We disagree. Viewed as a whole, the court's instructions fairly and adequately appraised the jury of the law and the parties' theories.<sup>2</sup> *Bordeaux v Celotex Corp*, 203 Mich App 158, 169; 511 NW2d 899 (1993).

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Michael R. Smolenski  
/s/ Karen M. Fort Hood

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complaint is improper. However, the decision is without precedential value because a majority of judges concurred in the result only and did not concur in the rationale underlying the decision. Where a majority reaches a decision but does not agree on the underlying rationale, no point of law is established by the decision. *Fogarty v Dep't of Transportation*, 200 Mich App 572, 574-575; 504 NW2d 710 (1993).

<sup>2</sup> To the extent plaintiff alleges that the jury should have been permitted to consider prior acts for more than background purposes, the issue was waived. Plaintiff does not challenge the trial court's earlier decision granting in part defendant's motion for summary disposition, wherein the court ruled that the statute of limitations precluded recovery for events occurring before July 22, 1994. Plaintiff's failure to address this necessary issue precludes appellate relief. *Roberts & Son Contracting, Inc v North Oakland Development Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987).